

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

JOY MACK, and Others
So Affected

PLAINTIFF

v.

CIVIL ACTION NO. 1:23-cv-00013-GHD-DAS

UNITED STATES OF AMERICA; et al.

DEFENDANTS

ORDER APPROVING AND ADOPTING REPORT AND RECOMMENDATION

On consideration of the file and records in this action, the Court finds that the Report and Recommendation [9] of the United States Magistrate Judge dated July 5, 2023, regarding the dismissal with prejudice of this *pro se* action for failure to state a plausible claim, was on that date duly served upon the Plaintiff; and that the Plaintiff's objection thereto has been filed and reviewed by the Court. The Magistrate Judge issued the Report and Recommendation after conducting a hearing on April 27, 2023, pursuant to *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985) to determine if a justiciable basis exists for the Plaintiff's claims [6].

For the reasons aptly set forth in the Magistrate Judge's Report and Recommendation, the Court is of the opinion that the Report and Recommendation should be approved and adopted as the opinion of the Court. The Plaintiff's Complaint, while no doubt sincerely drafted, simply does not state a plausible claim for relief. The Court shall therefore dismiss the Plaintiff's claims with prejudice. See, e.g., *Neitzke v. Williams*, 490 U.S. 319, 327 n. 6, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989) (quoting *Bell v. Hood*, 327 U.S. 678, 682–683, 66 S.Ct. 773, 90 L.Ed. 939 (1946)) (holding that “[a] court may find it lacks subject matter jurisdiction pursuant to Rule 12(b)(1) where the claim or claims are “so attenuated and unsubstantial as to be absolutely devoid of merit”).

The Court therefore **ORDERS** the following:

- 1) the Report and Recommendation [9] of the United States Magistrate Judge dated July 5, 2023, is hereby approved and adopted as the opinion of the Court; and
- 2) This action is DISMISSED WITH PREJUDICE pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.

SO ORDERED, this, the 12th day of September, 2023.



SENIOR U.S. DISTRICT JUDGE